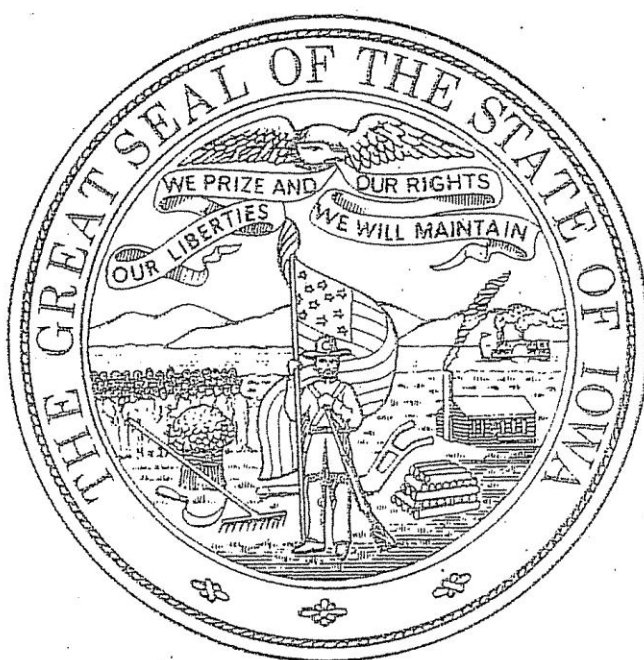


Iowa

Gubernatorial Appointee

Handbook



Office of the Governor

Terry E. Branstad

2011-2012

Iowa
Gubernatorial Appointee
Handbook

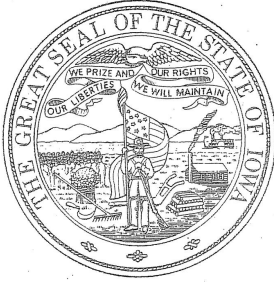
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Terry E. Branstad

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Carmin Boal, Assistant to the Governor
Gubernatorial Appointments

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(515) 281 – 5211



OFFICE OF THE GOVERNOR

STATE CAPITOL
DES MOINES, IOWA 50319
515-281-5211

TERRY E. BRANSTAD
GOVERNOR

Dear Appointee:

In accepting your recent appointment to a state board or commission, you have assumed a role in public policy-making. Your service in state government in this capacity is an important responsibility. As a citizen participating in government, you will be expected to represent and be responsive to the public and to your agency. You will need to familiarize yourself with your board and with the staff associated with it.

Citizen participation in government has a lengthy and deeply rooted history in America. This tradition thrives in Iowa because qualified individuals, like yourself, volunteer their time and talents to improve the quality of life in our state. I know you will find your service in state government challenging, and I sincerely appreciate your commitment to make a contribution to the people of Iowa.

Sincerely,

A handwritten signature in blue ink, reading "Terry E. Branstad". The signature is stylized with a large, looping "T" and a prominent "B".

Terry E. Branstad
Governor

Table of Contents

Board Member Responsibilities	2
Introduction to the Rule-Making Process	3
The Governor's Role in the Administrative Rule Process	4
Administrative Rules Review Committee Actions	5
Administrative Rules Review Committee Members	6
Department Heads Contact List	7
Iowa Code.....	9
Substance Abuse & Violence in the Workplace Policies	11
Equal Opportunity, Affirmative Action and Anti-Discriminatory Policies ...	12
Open Meetings Law	13
Parliamentary Procedure	14
Travel Vouchers	15
Sample Resignation Letter	16
Sample Consideration for Reappointment Letter	17

Board Member Responsibilities

Citizen boards and commissions are a time-honored tradition in Iowa. The appointment of citizens to boards and commissions attached to each of the agencies in the Executive Branch of the state government gives Iowa citizens an opportunity to be represented by their peers in the development of public policy.

Governor Branstad appoints nearly 1,300 individuals to over 170 boards and commissions. You are joining a select group of Iowa citizens charged with the responsibilities of setting the direction of policies and programs that impact the future of this state. When you accept an appointment with an Iowa board or commission, you automatically assume certain responsibilities which go with that appointment.

As a board or commission member...

- ❖ You have a role in guiding your board or commission in the accomplishment of specific goals and objectives.
- ❖ It is up to you and other members of your board or commission to establish a mission and move to accomplish that mission.
- ❖ It is your responsibility to notify Governor Branstad in writing if you are: resigning; changing your address; changing your employment status; changing your political party registration; or wish to be considered for reappointment.

You should...

- ❖ have a clear understanding of your agency's area of responsibility;
- ❖ study the Iowa Code sections and Administrative Rules that apply to your agency;
- ❖ review past minutes, annual reports and the budgets;
- ❖ know how your board or commission is accountable to your agency and the Governor.

Introduction to the Rule-Making Process

When a bill becomes law, administrative rules are often written to define and describe how that law will be implemented. Iowa Code Chapter 17A, called the Iowa Administrative Procedures Act, establishes a special procedure for creating administrative rules. Additional procedures are established to regulate contested cases, which are trial-type hearings, and to regulate judicial review of any agency action.

Purpose: The rule-making process serves four basic functions:

- (1) It requires agencies to publish a notice detailing the intention to adopt a new rule or revise an existing one;
- (2) It provides an opportunity for the public to offer comments and criticisms on the proposed rulemaking;
- (3) It allows the Governor and the legislature to exercise oversight over the rule-making process; and
- (4) It provides a process to publish and widely distribute final rules.

However, this process does not give the public veto power over agency rulemaking. Agencies have broad authority to use their expertise to implement the type of rule that will be most effective in carrying out the purpose and intent of the statute. The process ensures that agency decision-making is subject to public scrutiny and that agencies give full and fair consideration to public comments.

Process: The rule-making process involves two different processes: a notice process provides the public with an opportunity to comment on proposed agency rules while an implementation process requires final adoption, publication and distribution of the rule. Proposed rules are published in the Iowa Administrative Bulletin, a bi-weekly magazine that contains the text of all notice and final rules. When a rule is under notice, anyone may offer comments on that proposal. If requested by 25 people, or a group representing 25 people, the agency must hold a public hearing on the rule. During the implementation period, there is no additional opportunity for public comment. That period is used to prepare the rule in its final form and publish it in the Iowa Administrative Code.

Review: Both the Governor and the legislature review agency rulemaking on an ongoing basis. The legislature's Administrative Rules Review Committee meets monthly to review all proposed and final rules currently in the process. The public is welcome to attend these meetings and make presentations on the rule-making proposals. Both the Governor and the committee can object to any rule through a written opinion. In addition, the Governor can rescind any proposed rule up to 70 days after it has become effective. The legislature has a similar power, but requires joint action of the two houses in order to rescind a rule. The committee can delay the effective date of a proposed rule until the adjournment of the next session of the legislature.

The Governor's Role in the Administrative Rule Process

Iowa's Constitution states that the Governor is "the supreme executive authority". That provision clearly establishes the Governor as the head of the executive branch of government, which would include responsibility for agency rulemaking. As mentioned above, the Governor may object to any rule, and may rescind any rule up to seventy days after it becomes effective. A rescission is accomplished through an executive order—a formal gubernatorial pronouncement that is signed, sealed and published in the IAB.

The Governor may also trigger a review process for existing rules, which requires an agency to conduct a formal review of a specified rule to:

- determine the rule's effectiveness in achieving its objectives;
- describe significant written criticisms of the rule received during the previous five years, including a summary of any petitions for waiver of the rule received by the agency or granted by the agency;
- describe alternative solutions to resolve the criticisms of the rule, the reasons any were rejected, and any changes made in the rule in response to the criticisms as well as the reasons for the changes.

The Administrative Rules Coordinator is part of the Governor's office and administers the rulemaking process. Statutory responsibilities of the Coordinator include maintaining the electronic filing system for rulemaking; devising a style and form for all rules; overseeing the publication of the Iowa Administrative Code; and advising the Governor on rule making issues. More generally the Coordinator serves as the Governor's administrative counsel, advising on government issues generally. Although there is no statutory authority on this point, the Coordinator also traditionally sits as an ex officio non-voting member of the Administrative Rules Review Committee, participating in Committee deliberations and listening to public and agency testimony on specific rules issues.

Administrative Rules Review Committee Actions

The committee is comprised of five senators, five representatives, and an administrative rules coordinator designated by the Governor. The committee meets the second Tuesday of every month in order to review pending regulations. The meetings are open to the public and an interested person may be heard and present evidence. An agency who is proposing a rule may need a representative present at the meeting to discuss it with the committee.

Regulatory Analysis: Iowa Code Section 17A.4A states that the committee has the ability to request an analysis of the rule within 32 days after the published notice. Additionally, if the committee, the administrative rules coordinator, or at least 25 people who qualify as “small business” sign a written request, an analysis must be given by the agency.

General Referral: Iowa Code Section 17A.8 allows the committee to refer a rule to the Speaker of the House and the President of the Senate at the next regular session of the general assembly. The Speaker and President will refer the rule to the appropriate standing committee of the general assembly. This referral power does not impact the enforceability or legality of the rule, but instead serves as a mechanism to bring a rule-making issue to the attention of the legislature.

Objection: Iowa Code Section 17A.4 permits the committee to object to any rule found to be unreasonable, arbitrary, capricious, or otherwise beyond the authority delegated to the agency. A certified written copy of the objection must be filed with the agency and the office of the Administrative Code editor and a notice will be published in the next edition of the Iowa Administrative Bulletin. The agency then has the burden of proof to establish that the rule does not fit the standards of the objection.

Session Delay: Iowa Code Section 17A.8 allows the committee to delay the effective date of a rule until the adjournment of the next regular session of the general assembly. A two-thirds vote of the members is required to pass. The rule is referred to the Speaker of the House and the President of the Senate, who then pass it on to a relevant standing committee of the legislature. The standing committee has 21 days after the rule is referred to it to take formal action by sponsoring a joint resolution or legislation concerning the rule. If the general assembly has not disapproved of the rule by a joint resolution, the rule becomes effective. If the rule is disapproved, it will not become effective and the agency must rescind the rule.

Seventy-Day Delay: Iowa Code Section 17A.4 delegates authority to the committee to delay the effective date of a rule up to seventy days beyond what is permitted (35 days after filing). A two-thirds vote of the members is required to pass. The delay is simply a tool to buy more time to review a proposed rule. It is most frequently used to create a “cooling off” period before the committee takes more drastic action, giving interested people an opportunity to reach compromises or solutions.

Administrative Rules Review Committee Members

Wally Horn, Senator, Chair Democrat, District 17 – Cedar Rapids	wally.horn@legis.state.ia.us
Merlin Bartz, Senator Republican, District 6 – Grafton	merlin.bartz@legis.state.ia.us
Thomas Courtney, Senator Democrat, District 44 – Burlington	thomas.courtney@legis.state.ia.us
John (Jack) Kibbie, Senator Democrat, District 4 – Emmetsburg	john.kibbie@legis.state.ia.us
James Seymour, Senator Republican, District 28 – Woodbine	james.seymour@legis.state.ia.us
Dawn Pettengill, Representative, Vice Chair Republican, District 39 – Mount Auburn	dawn.pettengill@legis.state.ia.us
David Heaton, Representative Republican, District 91 – Mount Pleasant	david.heaton@legis.state.ia.us
Jo Oldson, Representative Democrat, District 61 – Des Moines	jo.oldson@legis.state.ia.us
Rick Olson, Representative Democrat, District 68 – Des Moines	rick.olson@legis.state.ia.us
Guy Vander Linden, Representative Republican, District 75 – Oskaloosa	guy.vander.linden@legis.state.ia.us
Brenna Findley, Administrative Rules Coordinator Governor's Ex-Officio Representative	(515) 281 – 5211
Larry Johnson Governor's Deputy Legal Counsel	larry.johnson@iowa.gov (515) 725-3506
Joseph Royce Committee Legal Counsel	joe.royce@legis.state.ia.us (515) 281 – 3566
Jack Ewing Committee Legal Counsel	jack.ewing@legis.state.ia.us (515) 281 – 6048
Stephanie Hoff Administrative Code Editor	stephanie.hoff@legis.state.ia.us (515) 281 – 3566

Department Heads Contact List

Mike Carroll Director, Department of Administrative Services	(515) 281 – 3273
Donna Harvey Director, Department on Aging	(515) 725 – 3333
Bill Northey Secretary of Agriculture, Department of Agriculture and Land Stewardship	(515) 281 – 5322
Karen Keninger Director, Department for the Blind	(515) 281 – 1333
JoAnn Johnson Superintendent of Division of Credit Unions, Department of Commerce	(515) 725 – 0505
John Baldwin Director, Department of Corrections	(515) 725 – 5712
Mary Cownie Director, Department of Cultural Affairs	(515) 281 – 7471
Debi Durham Director, Department of Economic Development	(515) 725 – 3022
Jason Glass Director, Department of Education	(515) 281 – 3436
San Wong Director, Department of Human Rights	(515) 242 – 5655
Charles Palmer Director, Department of Human Services	(515) 281 – 5452
Rod Roberts Director, Department of Inspections and Appeals	(515) 281 – 5457
Megan Tooker Executive Director, Iowa Ethics and Campaign Disclosure Board	(515) 281 – 3489
Teresa Wahlert Director, Iowa Workforce Development	(515) 281 – 5387
David Roederer Director, Department of Management	(515) 281 – 3322

Roger Lande Director, Department of Natural Resources	(515) 281 – 5918
Samuel Langholz State Public Defender, State Public Defender’s Office	(515) 242 – 6158
Mariannette Miller-Meeks Director, Department of Public Health	(515) 281 – 7689
Larry Noble Commissioner, Department of Public Safety	(515) 725 – 6182
Paul Trombino III Director, Department of Transportation	(515) 239 – 1101

Iowa Code

The Iowa Code contains essential information regarding every board and commission, with the exception of those not created in the legislature. It creates standards for the composition of each board and commission, while designating a purpose as well. The following is a list of relevant Iowa Code sections for boards and commissions in general.

Compensation: Iowa Code § 7E.6 – A handful of boards are compensated annually. However, most boards and commissions will allow a per diem or reimbursement of expenses, at most. If designated by the Iowa Code, a board or commission member may be given a per diem of up to \$50. In addition, a member may also be reimbursed for any actual or necessary expenses.

Holding Over: Iowa Code § 69.1A – Unless otherwise stated, a member appointed to a fixed term must hold office until a successor is elected and qualified, unless the member resigns, is removed or suspended from holding the position.

Ineligibility: Iowa Code § 69.9 – No member who has been removed from office within the past year can be appointed to fill a vacancy.

Nonattendance: Iowa Code § 69.15 – A member will be deemed to have resigned from the position if he or she does either of the following:

- (1) Fails to attend three or more consecutive regular meetings (unless the first and last of the meetings are within 30 days of each other); or
- (2) Attends less than half of the regular meetings between July 1 to June 30 or January 1 to December 31 (unless there are less than four meetings per year)

However, the Governor has the discretion to accept or reject such a resignation. In addition, if a member does not have notice or knowledge of a meeting and does not want the absence to count against them, the member must give a sworn statement to the Governor to that effect within 10 days after learning of the meeting.

Political Affiliations: Iowa Code § 69.16 – The code dictates that, unless specifically noted elsewhere, boards and commissions must be politically balanced.

Gender Balance: Iowa Code § 69.16A – The code also calls for a gender balance among members. In other words, there will be equal parts of each gender, unless otherwise stipulated.

Minority Representation: Iowa Code § 69.16C – Minority representation is expected on each board and commission, to the extent practicable.

Young Adult Representation: Iowa Code § 69.16E – The code states that young adults should be represented on every board and commission, to the extent practicable. A young adult is a person between the ages of 18 and 35.

Conflict of Interest: Iowa Code § 68B.2 – The code lists a number of scenarios which are prohibited while holding a board or commission position. No member may use his or her position to give an advantage to a family member, friend, or any other member of the public. Also, a member, or his or her family, cannot receive money or the promise of another benefit for the performance of an act that occurs within the confines of the board or commission position. If employment outside the board or commission interferes with the board or commission member’s duties, he or she is expected to resign. A good rule of thumb is to avoid anything that might be construed as a conflict of interest.

Gifts: Iowa Code § 68B.22 – A public official or their family cannot directly or indirectly accept or receive any gift or series of gifts from a restricted donor. For a complete list of prohibited and permitted items, please read the code section provided.

Financial Disclosure: Iowa Code § 68B.35 – Members of specific boards (listed in the code) who receive an annual salary for their service are required to file financial statements with the state. The statement must list: each business, occupation or profession in which the individual is engaged, as well as the nature of that business, occupation or profession; and all other sources of income if the source produces more than \$1,000 annually in gross income.

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While the code sections are listed and briefly described, it may be necessary to read through each section completely. The following provides step-by-step instructions as to accessing the Iowa Code online.

- (1) Open the website: <http://www.legis.iowa.gov/index.aspx>
- (2) On the top of the page, click on “Iowa Law & Rules” which is the fourth link from the left
- (3) Click on “Search the Iowa Code” which is the third link from the top
- (4) At the top of the page, click “Search Form”
- (5) Type in the code section you are looking for in the first box titled “contained in the Iowa Code”

Substance Abuse & Violence in the Workplace Policies

Substance abuse: The State of Iowa is committed to maintain a safe work environment free from the use, abuse or effects of alcohol or drugs/controlled substances. Individuals have the right to work in an environment that is free from drug or alcohol abuse or misuse. Those who are under the influence of drugs or alcohol may adversely affect other employees and the public at large. Therefore, individuals are prohibited from:

- ❖ reporting to work while under the influence of alcohol or drugs;
- ❖ unauthorized or illegal manufacture, possession, sale, purchase, transfer, consumption or use of any drugs or alcoholic beverages while engaged in state business, or on state property;
- ❖ illegal use or abuse of drugs or alcoholic beverages during or within eight hours before operating a state or personal vehicle when the individual is engaged in state business; and
- ❖ unauthorized use of prescription drugs while in engaged in state business or on state property.

Violence: The State of Iowa recognizes that violence at work can seriously affect employee work performance and morale. Threats, intimidation, harassment, or acts of violence will not be tolerated. The state further establishes that all officials, managers, supervisors, and employees will treat each other with courtesy, dignity and respect. The state is committed to a creating a violence-free workplace.

An individual who is the victim of workplace violence should report the incident immediately. In addition, anyone who witnesses workplace violence or the potential for such violence directed at another person or property of the state should report such incidents. Reports should be given to a supervisor or administrator of a board or commission. Corrective action will be taken to remedy violations of this policy when warranted, which could include discharge of the individual.

Equal Opportunity, Affirmative Action and Anti-Discriminatory Policies

It is the policy of the executive branch of the State of Iowa government to: provide equal opportunity to all employees, applicants, and program beneficiaries; provide equal opportunity for the advancement of employees; provide program and employment facilities that are accessible to all people; administer programs in a manner that does not discriminate against any people because of race, creed, color, religion, sex, sexual orientation, marital status, national origin, age, or physical or mental disability; and apply affirmative action measures to correct underutilization in state employment where such remedies are appropriate.

Furthermore, it is the policy of the state to maintain an environment free of all forms of discrimination on the basis of race, creed, color, religion, sex, sexual orientation, marital status, national origin, age, or physical or mental disability. Such discrimination subverts the public interest, threatens the working relationships within state government employment as a whole, and will not be tolerated.

The state will not tolerate violations of this policy. Gubernatorial appointees and other board and commission members found to have violated this policy will be subject to sanction or removal from office.

Sexual Harassment: Sexual harassment is a violation of the Civil Rights Act of 1964 and the Iowa Code. It is defined as either a sexually hostile work atmosphere or unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment is illegal when submission to or rejection of such conduct unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Other Types of Harassment: Harassment of an individual based on their race, creed, color, religion, sex, sexual orientation, national origin, age, or physical or mental disability is a violation of the Civil Rights Act of 1964, Iowa Civil Rights Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act of 1990.

Assignment of Responsibility: Department directors have the responsibility for the overall administration of this policy. This includes responsibility for equal opportunity, affirmative action, and prevention of harassment.

Complaints: All complaints will be promptly investigated, and all allegations will remain confidential during investigation. Corrective action will be taken to remedy violations of this policy, which could include removal from office. Individuals may also file charges with the Iowa Civil Rights Commission or the U.S. Equal Employment Opportunity Commission.

Open Meetings Law

Board meetings are regulated by the state's open records law, governed by Chapter 21 of the Iowa Code. The intent of the law is for every meeting of governmental bodies to be open to the public unless there are overriding reasons to close the meeting.

- ❖ Public notice of the meeting must be given at least 24 hours prior to the meeting.
- ❖ Meetings must be held at a place reasonably accessible to the public, and at a time that is reasonably convenient to the public, unless impossible or impractical.
- ❖ Meetings are open unless they are closed for a very specific reason. Closed sessions are permitted when the vote passes by two-thirds of the total membership or if the vote is unanimous by the members who are present.
- ❖ If a meeting is closed, the board must take a roll call vote to go into closed session and keep a tape recording and detailed minutes of the closed session.
- ❖ Final action must be taken in open session.
- ❖ Telephone conference calls may be held only in specific circumstances.

In addition, each board and commission is required to keep minutes of all its meetings showing the date, time, place, members present, and the actions taken at each meeting. The minutes should also show the results of each vote taken and information sufficient to indicate the vote of each member present.

Failure to comply with the provisions of the Open Meetings Law can result in a fine being assessed against an individual. A board or commission member may be liable for the legal fees incurred by the person bringing the action against the board for violation of the open meeting law. A member can be removed for repeated violations and an injunction can be issued to order the board or commission to refrain from further violations.

Parliamentary Procedure

To Do This	Say This	Interrupt	Seconded	Debatable	Vote Required
*Adjourn	"I move the meeting be adjourned"	No	Yes	No	Majority
Recess	"I move the meeting be recessed until"	No	Yes	No	Majority
* Complain about noise, room, etc.	"Point of privilege"	Yes	No	No	No vote
*Suspend further consideration	"I move to table the motion"	No	Yes	No	Majority
End debate	"I move the previous question"	No	Yes	No	2/3 Vote
Postpone consideration	"I move this matter be postponed until"	No	Yes	Yes	Majority
Study something further	"I move this matter be referred to a committee"	No	Yes	Yes	Majority
Amend a motion	"I move that this motion be amended"	No	Yes	Yes	Majority
Introduce business	"I move that"	No	Yes	Yes	Majority
Object to a procedure or personal affront	"Point of order"	Yes	No	No	No Vote Chair Decides
Request information	"Point of information"	Yes	No	No	No Vote
*Ask for an actual vote by voice	"I call for a division of the house"	No	No	No	No Vote
*Object to considering a matter	"I object to consideration of this matter"	Yes	No	No	2/3 Vote
*Take off the table	"I move to take from the table"	No	Yes	No	Majority
*Reconsider	"I move to reconsider the action"	Yes	Yes	Yes	Majority
*Consider something out of order	"I move to suspend the rules and consider"	No	Yes	No	2/3 Vote
*Vote of ruling by chair	"I appeal the chair's decision"	Yes	Yes	Yes	Majority

* = not amendable

Travel Vouchers

Official domicile: city of your office location

Agency to be charged: name of your commission or board

Travel approved: signature of the department director or designee

Dates: each day of travel, meals, or lodging must be listed separately

Travel: indicate the city from which you started and the city of destination; a one-day round trip can be put on one line (i.e. Des Moines – Cedar Rapids – Des Moines)

Miles: number of miles from the place of departure to your destination; this cannot be claimed if transportation is in a state vehicle

Charge: a personal car receives \$0.39 per mile

Meals: meals reimbursement is according to the policy of the Board or Commission on which you serve

Lodging: the maximum allowable rate for board and commission members is \$50.00, plus tax; an original hotel receipt must be included with your travel voucher; some hotels give government discounts and you are eligible for this when traveling on state business

Claimant's Certification: your signature and the date; vouchers will be returned without this

All other questions regarding travel should be directed at the Department of Administrative Services.

Travel Voucher: http://das.iowa.gov/sae/images/word_docs/TPO.doc

Claim Voucher: http://www.iowahomelandsecurity.org/documents/e911/E911_Travel_FORM.pdf

Sample Resignation Letter

John Doe
555 Main Street
Des Moines, IA 50309

August 31, 2011

The Honorable Terry E. Branstad
Governor of Iowa
State Capitol Building
Des Moines, IA 50319

Dear Governor Branstad:

This letter is to inform you of my resignation from the (name of the board or commission). I regret that because (list reason for resigning), I am unable to continue my term on the board.

Thank you for appointing me to this position. (Any additional comments you'd like to add).

Sincerely,

John Doe

cc: Department of (department name)

Sample Consideration for Reappointment Letter

John Doe
555 Main Street
Des Moines, IA 50309

August 31, 2011

The Honorable Terry E. Branstad
Governor of Iowa
State Capitol Building
Des Moines, IA 50319

Dear Governor Branstad:

My term on the (name of the board or commission) will expire June 30, 2012. This letter is to inform you that I would like to continue to serve on this board for another term. I have enjoyed my work with this commission and would appreciate your consideration of my reappointment.

Please let me know if you need any further information.

Sincerely,

John Doe

cc: Department of (department name)